



CLOSED CASE SUMMARY

ISSUED DATE: FEBRUARY 28, 2022

FROM: INTERIM DIRECTOR GRAINNE PERKINS
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2021OPA-0309

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	5.100 - Operations Bureau Individual Responsibilities III. Patrol Sergeant A. Responsibilities & B. Field Supervision	Not Sustained (Unfounded)
# 2	8.400-POL-1 Use of Force Reporting and Investigation 4. The Sergeant Will Review the Incident and Do One of the Following...	Not Sustained (Unfounded)
# 3	5.140 - Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing	Not Sustained (Unfounded)

Named Employee #2

Allegation(s):		Director's Findings
# 1	5.100 - Operations Bureau Individual Responsibilities III. Patrol Sergeant A. Responsibilities & B. Field Supervision	Not Sustained (Lawful and Proper)
# 2	8.400-POL-1 Use of Force Reporting and Investigation 4. The Sergeant Will Review the Incident and Do One of the Following...	Not Sustained (Training Referral)
# 3	5.140 - Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing	Not Sustained (Unfounded)

Named Employee #3

Allegation(s):		Director's Findings
# 1	6.010 - Arrests 1. Officers Must Have Probable Cause That a Suspect Committed a Crime in Order to Effect an Arrest	Not Sustained (Lawful and Proper)
# 2	15.180 - Primary Investigations 1. Officers Shall Conduct a Thorough and Complete Search for Evidence	Not Sustained (Lawful and Proper)
# 3	5.140 - Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing	Not Sustained (Unfounded)

Named Employee #4

Allegation(s):		Director's Findings
# 1	5.001 - Standards and Duties 2. Employees Must Adhere to Laws, City Policy and Department Policy	Not Sustained (Unfounded)
# 2	5.001 - Standards and Duties 10. Employees Will Strive to be Professional	Not Sustained (Unfounded)

Named Employee #5

Allegation(s):		Director's Findings
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# 1	5.140 - Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing	Not Sustained (Unfounded)
# 2	8.300–POL-12 Use of Force - Firearms 5. An Officer May Draw their Firearm in the Line of Duty When...	Not Sustained (Lawful and Proper)
# 3	8.400-POL-1 Use of Force Reporting and Investigation 1. Officers Will Document in a Use-of-Force Report All Uses of Force Except De Minimis Force	Not Sustained (Training Referral)

Named Employee #6

Allegation(s):		Director's Findings
# 1	6.010 - Arrests 1. Officers Must Have Probable Cause That a Suspect Committed a Crime in Order to Effect an Arrest	Not Sustained (Lawful and Proper)
# 2	15.180 - Primary Investigations 1. Officers Shall Conduct a Thorough and Complete Search for Evidence	Not Sustained (Lawful and Proper)
# 3	5.140 - Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing	Not Sustained (Unfounded)
# 4	5.140 - Bias-Free Policing 5. Employees Will Call a Supervisor in Response to Allegations of Bias-Based Policing	Not Sustained (Training Referral)

Named Employee #7

Allegation(s):		Director's Findings
# 1	6.010 - Arrests 1. Officers Must Have Probable Cause That a Suspect Committed a Crime in Order to Effect an Arrest	Not Sustained (Lawful and Proper)
# 2	15.180 - Primary Investigations 1. Officers Shall Conduct a Thorough and Complete Search for Evidence	Not Sustained (Lawful and Proper)
# 3	5.140 - Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing	Not Sustained (Unfounded)
# 4	8.300–POL-12 Use of Force - Firearms 5. An Officer May Draw their Firearm in the Line of Duty When...	Not Sustained (Lawful and Proper)
# 5	8.400-POL-1 Use of Force Reporting and Investigation 1. Officers Will Document in a Use-of-Force Report All Uses of Force Except De Minimis Force	Not Sustained (Training Referral)

Named Employee #8

Allegation(s):		Director's Findings
# 1	6.010 - Arrests 1. Officers Must Have Probable Cause That a Suspect Committed a Crime in Order to Effect an Arrest	Not Sustained (Lawful and Proper)
# 2	15.180 - Primary Investigations 1. Officers Shall Conduct a Thorough and Complete Search for Evidence	Not Sustained (Lawful and Proper)
# 3	5.140 - Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing	Not Sustained (Unfounded)

This Closed Case Summary (CCS) represents the opinion of the OPA Director regarding the misconduct alleged and therefore sections are written in the first person.



EXECUTIVE SUMMARY:

The Complainant alleged that two Named Employees used excessive force by pointing their patrol rifles at him. The Complainant also alleged that the Named Employees engaged in biased policing in their decision making and falsely arrested him. The Complainant also alleged that one Named Employee has been harassing him. OPA added allegations against two Named Employees, both supervisors, and also against other Named Employees for failure to document a use of force.

SUMMARY OF INVESTIGATION:

The Complainant's allegations relate to his May 13, 2021 arrest for felony harassment as well as allegations that Named Employee #4 (NE#4) engaged in a pattern of harassment against him over the preceding two years.

a. Summary of Complainant's Allegations

The Complainant emailed a statement and several attachments to OPA on June 29, 2021. After OPA commenced this investigation, the Complainant also sent a series of follow-up emails to OPA. However, the Complainant never agreed to provide an oral statement to OPA and, ultimately, asked OPA to stop contacting him.

The Complainant alleged that NE#4—who he identified by name—had been harassing him by following him “from Federal Way to NW Seattle.” The Complainant also alleged that NE#4 “harassed” his relationship with the Complainant’s girlfriend by following them to a restaurant in Federal Way “2 years ago.” The Complainant alleged that he observed NE#4 eating at the restaurant with the Complainant’s neighbor, Community Member #1 (CM#1). The Complainant also stated that NE#4 seized his firearms on December 17, 2020 and was present at his May 13, 2021 arrest.

The Complainant alleged that, on May 12, 2021, he accidentally fired one of his firearms while unloading the weapon and that the police responded in order to investigate this incident. The Complainant alleged that he left for work in the morning the following day. The Complainant alleged that, while he was at work, he received text messages from his landlord asking about “another shot” that was fired on May 13, 2021 and informing the Complainant that the police had been at the building. The Complainant alleged that he came home in the evening, spoke with his landlord, then went to purchase marijuana. The Complainant claimed that, when he came back home, he saw his neighbor, Community Member #2 (CM#2), standing naked next to his apartment door. The Complainant alleged that, as he approached his apartment door, CM#1—CM#2’s boyfriend—attacked him with a metal pipe. The Complainant alleged that he then defended himself by brandishing a handgun. But, the Complainant alleged, CM#1 and CM#2 “rushed” to attack him, causing him to drop his handgun. The Complainant alleged that CM#2 picked up his handgun and went inside her apartment and, at the same time, CM#1 stole the Complainant’s marijuana and money before also retreating into CM#1’s apartment.

The Complainant called 911 and reported the incident. The Complainant also alleged that CM#1’s father was outside his apartment falsely claiming that the Complainant was waving his gun at him. The Complainant claimed that, a short time later, the 911 operator told him to leave his apartment to meet the police outside. The Complainant alleged that “six to seven” SPD officers contacted him with “drawn assault-rifles . . . ready to kill me.” The Complainant alleged that he was then handcuffed, and that he informed the officers that he was the victim of a “violent assault of a deadly weapon.” The Complainant alleged that the police, fire fighters, and emergency medical technicians took pictures of



his injuries. The Complainant also alleged that he told the SPD officers that he had been at work and asked that they call his supervisor to confirm that information. The Complainant alleged that the police ignored the exculpatory information he provided them.

b. Evidence Reviewed

As part of its investigation, OPA reviewed the complaint, its attachments, and the follow-up emails from the Complainant. Despite requests from OPA, the Complainant did not provide an oral statement.

OPA also reviewed Computer Aided Dispatch (CAD) records, Incident/Offense reports, statements of responding officers, witness statements, photographs, detective reports, DOJ Firearms Trace Summary, King County Jail records, Body Worn Video (BWV), and In-Car Video (ICV).

OPA interviewed all of the Named Employees except NE#4, who was on extended leave and then retired. Accordingly, OPA was unable to interview NE#4 as part of OPA's investigation.

c. Summary of Events from 13, 2021

SPD officers responded to the Complainant's apartment building twice on May 13, 2021. On May 13, 2021 at approximately 1:12 P.M., SPD officers responded to the Complainant's apartment building. The 911 caller—Community Member #3 (CM#3)—was the father of CM#1. CM#3 informed responding officers that the complainant had shot a firearm "through the wall" thirty minutes earlier. CM#3 indicated that officers had responded to the same location the previous night for the same issue, but that the Complainant stated it was an accidental discharge. CM#1 and CM#2 exited the building. According to the incident report for this response, responding officers observed the Complainant inside of his apartment unit and tried to contact him through verbal commands and by telephone without success. A Captain on scene then ordered the responding officers not to enter the Complainant's apartment unit and to clear the scene.

At approximately 7:47 P.M., SPD officers responding to the Complainant's apartment based on a report of "male with gun, lots of shouting." All the Named Employees—except NE#4, as discussed below at Named Employee #4, Allegation #1—responded to the scene and created a tactical plan.

Named Employee #5 (NE#5) and Named Employee #7 (NE#7) deployed with patrol rifles. The officers approached the Complainant's building and called for him to come outside. The Complainant did so and the officers conducted a high-risk arrest, during which NE#5 and NE#7 pointed their patrol rifles in the Complainant's direction. The Complainant was taken into custody and handcuffed. The officers then commenced an investigation, which included interviewing the Complainant, CM#1, CM#2, and CM#3. As discussed more fully below at Named Employee #3, Allegation #1, these parties gave different versions of events. Generally, the Complainant, who had a serious injury to his hand caused by CM#1, said that he did nothing wrong, denied firing or brandishing his weapon, and provided an unverified alibi. The Complainant stated that, instead, he was the victim of a robbery. CM#1 and CM#2 denied the Complainant's account and said that he was the aggressor and criminal suspect. The officers ultimately determined that there was probable cause to arrest the Complainant for felony harassment.

At various points, the Complainant raised issues of bias that appeared to be directed towards CM#1, CM#2, and CM#3, not the officers' conduct. However, as the Complainant was being transported from the scene in Named Employee



#6's (NE#6) patrol vehicle, the Complainant stated that the officers who responded to the scene were biased. NE#6 did not report this allegation of bias to a supervisor.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

5.100 - Operations Bureau Individual Responsibilities III. Patrol Sergeant A. Responsibilities & B. Field Supervision

It was alleged that Named Employee #1 (NE#1) failed to supervise the investigation.

The SPD Manual outlines the supervisory responsibilities of patrol sergeants for officers in their command. These responsibilities include, among other things, the approval of police reports, ensuring their "accuracy and completeness." SPD Manual 5.100(III)(A)&(B).

During his OPA interview, NE#1 stated that, although he was a sergeant and was on-scene, he was not in charge of the direct supervision of any other officers on scene. Instead, NE#1 stated that he was there to support Named Employee #2 (NE#2), an acting sergeant whose team was handling this incident. NE#2 confirmed this information.

Accordingly, OPA recommends that this allegation be Not Sustained (Unfounded).

Recommended Finding: **Not Sustained (Unfounded)**

Named Employee #1 - Allegation #2

8.400-POL-1 Use of Force Reporting and Investigation 4. The Sergeant Will Review the Incident and Do One of the Following...

It was alleged that NE#1 failed to review this Use of Force incident and classify the force.

SPD Policy 8.400-POL-1(3) requires that a sergeant review a force incident and classify the force as either Type I, Type II, or Type III for investigation.

For the same reasons set forth in Named Employee #1, Allegation #1, OPA recommends that this allegation be Not Sustained (Unfounded).

Recommended Finding: **Not Sustained (Unfounded)**

Named Employee #1 - Allegation #3

5.140 - Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing

The Complainant alleged that NE#1 engaged in bias-based policing based on his race.

SPD policy prohibits biased policing, which it defines as "the different treatment of any person by officers motivated by any characteristic of protected classes under state, federal, and local laws as well other discernible personal characteristics of an individual." (SPD Policy 5.140-POL.) This includes different treatment based on the race of the subject. (*See id.*)



The Complainant did not specifically allege, nor do any facts suggest, that any of NE#1's actions were motivated by the Complainant's race.

Accordingly, OPA recommends that this allegation be Not Sustained (Unfounded).

Recommended Finding: **Not Sustained (Unfounded)**

Named Employee #2 - Allegation #1

5.100 - Operations Bureau Individual Responsibilities III. Patrol Sergeant A. Responsibilities & B. Field Supervision

It was alleged that NE#2 failed to supervise the investigation and that NE#2 did not complete an arrest screening report.

For the reasons set forth below at Named Employee #3, Allegation #1, the Complainant's arrest was based on probable cause to believe he had committed a crime. OPA recommends that the portion of this allegation concerning a failure to supervise the investigation be Not Sustained (Lawful and Proper).

Moreover, during its investigation, OPA verified that NE#2 did, in fact, complete an arrest screening report for this incident. Accordingly, OPA recommends that this portion of the allegation be removed.

Recommended Finding: **Not Sustained (Lawful and Proper)**

Named Employee #2 - Allegation #2

8.400-POL-1 Use of Force Reporting and Investigation 4. The Sergeant Will Review the Incident and Do One of the Following...

It was alleged that NE#2 failed to review this Use of Force incident and classify the force.

The only potentially classifiable force used by any officer during this incident was by NE#5 and NE#7, who both pointed their patrol rifles in the Complainant's direction. At issue here is whether NE#5 and NE#7's actions met the standard for "pointing of a firearm *at* a subject" (emphasis added) and, if so, whether the policy as written was a Type I use of force that needed to be reported and classified.

SPD policy requires officers to document all uses of force except *de minimis* force. SPD Manual 8.400-POL-1(1). The SPD Manual defines "pointing of a firearm at a subject" to be a Type I Use of Force, SPD Manual 8.400-POL-1, but also defines "reportable force" as including "the intentional pointing of a firearm at a subject, Type I, Type II, Type III, and force used in Crowd Management." SPD Manual 8.050.

NE#2 stated he did not observe either NE#5 or NE#7 point their patrol rifles at the Complainant. NE#5 stated that he did not point his rifle "at" the Complainant, but instead held it at a "high ready" position, that is with the rifle on his shoulder, looking straight ahead, with the gun pointed down. NE#5 stated that he never actually targeted the Complainant, but that its possible for a viewer to "misinterpret where the tip of the rifle is actually pointing." NE#7 similarly stated that he brought his weapon up, but that he confirmed by "quickly looking down the sights" that he was not ever targeting the Complainant.



These statements could be true in the most technical sense. That is, NE#5 and NE#7 could have had their patrol rifles raised and pointed in the Complainant's direction but, by whatever small degree, neither targeted the Complainant. Absent additional video or forensic evidence—which is not available here—OPA cannot conclusively establish that this was not the case. However, OPA believes this understanding is both incorrect and strains the spirit of the policy to an unworkable degree. The BWV shows both NE#5 and NE#7 pointing their patrol rifles in the Complainant's direction. NE#2 should have classified this as a Type I use of force and ensured it was documented. To the extent that this mistake was a result of a plausible misunderstanding of policy, OPA finds that these officers did not willfully violate policy amounting to misconduct. Accordingly, OPA recommends that this allegation be Not Sustained – Training Referral.

- **Training Referral:** NE#2's chain of command should discuss OPA's findings with NE#2, review SPD Policies 8.400-POL-1 and 8.050 with NE#2, and provide any further retraining and counseling that it deems appropriate. The retraining and counseling conducted should be documented, and this documentation should be maintained in Blue Team.

Recommended Finding: **Not Sustained (Training Referral)**

Named Employee #2 - Allegation #3

5.140 - Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing

The Complainant alleged that NE#2 engaged in bias-based policing based on his race.

The Complainant did not specifically allege, nor do any facts suggest, that any of NE#2's actions were motivated by the Complainant's race.

Accordingly, OPA recommends that this allegation be Not Sustained (Unfounded).

Recommended Finding: **Not Sustained (Unfounded)**

Named Employee #3 - Allegation #1

6.010 - Arrests 1. Officers Must Have Probable Cause That a Suspect Committed a Crime in Order to Effect an Arrest

The Complainant alleged that NE#3 arrested him without probable cause.

SPD Policy 6.010-POL-1 requires that officers have probable cause to believe that a suspect committed a crime when effectuating an arrest. Stated differently, where an arrest is not supported by probable cause, it violates law and Department policy. Probable cause exists when the facts and circumstances within an officer's knowledge are sufficient in themselves to support a reasonable belief that an offense has been or is being committed.

The situation that the Named Employees were investigating involved multiple police responses to the same location, as well as varying accounts from CM#1, CM#2, and the Complainant about a violent confrontation between them. Although confronted with convoluted information from different sources, the Named Employees had sufficient facts to support a reasonable belief that the Complainant was guilty of harassment. The Named Employees responded to the Complainant's apartment based on a report of a "male with gun, lots of shouting." The Named Employees also



knew that SPD officers had responded to the Complainant's apartment twice in the preceding day for reports that the Complainant had discharged a firearm inside. The Named Employees received additional information from both CM#1 and CM#2. Although their on-scene statements were not perfectly consistent, both CM#1 and CM#2 stated that there was an argument between them and the Complainant during which the Complainant brandished a firearm causing them to feel fear. CM#1 and CM#2 also said that CM#1 was able to hit the firearm out of the Complainant's hand, after which CM#2 picked up the firearm and took it into their apartment.

The Complainant alleges that the Named Employees did not credit (1) his version of events that CM#1 and CM#2 were the aggressors or, (2) his alibi that he was at work at the time of one of the earlier firearm discharges. Although some facts support the Complainant's version of events—specifically, the inconsistencies between CM#1 and CM#2's statements and the Complainant's visible injuries—there were sufficient facts for the Named Employees to reasonably credit CM#1 and CM#2's version of events more than the Complainant's. Moreover, the Named Employees video recorded statements from both CM#1 and CM#2 that could be reviewed more closely during any criminal prosecution and documented the Complainant's injuries. The probable cause standard does not require officers to be certain. Moreover, the Complainant's alibi is not relevant to the incident for which he was arrested—the harassment—but was for the second firearm discharge earlier in the day. However, even if the Complainant's alibi were relevant, the Named Employees attempted to verify it by calling the Complainant's supervisors, but their calls went to voicemail.

Accordingly, OPA recommends that this allegation be Not Sustained (Lawful and Proper).

Recommended Finding: **Not Sustained (Lawful and Proper)**

Named Employee #3 - Allegation #2

15.180 - Primary Investigations 1. Officers Shall Conduct a Thorough and Complete Search for Evidence

The Complainant alleged that NE#3 failed to conduct a thorough and complete search for evidence.

SPD Policy 15.180-POL-1 requires that, in primary investigations, officers conduct a thorough and complete search for evidence. The policy further requires officers to collect evidence and states that only evidence that it impractical to collect shall be retained by the owner. (SPD Policy 15.180-POL-1.) Such evidence should be photographed. (*Id.*)

As discussed more fully above at Named Employee #2, Allegation #2, the Named Employees in this case conducted a thorough search for evidence. The Named Employees (1) recorded statements from the Complainant, CM#1, CM#2, and other secondary witnesses, (2) recovered physical evidence, (3) documented the Complainant's side of the story and injuries, and (4) attempted to verify the Complainant's purported alibi.

Accordingly, OPA recommends that this allegation be Not Sustained (Lawful and Proper).

Recommended Finding: **Not Sustained (Lawful and Proper)**

Named Employee #3 - Allegation #3

5.140 - Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing

The Complainant alleged that NE#3 engaged in bias-based policing based on his race.



The Complainant did not specifically allege, nor do any facts suggest, that any of NE#3's actions were motivated by the Complainant's race.

Accordingly, OPA recommends that this allegation be Not Sustained (Unfounded).

Recommended Finding: **Not Sustained (Unfounded)**

Named Employee #4 - Allegation #1

5.001 - Standards and Duties 2. Employees Must Adhere to Laws, City Policy and Department Policy

The Complainant alleged that NE#4 violated law or policy by harassing him over a period of two years.

SPD Policy 5.001-POL-2 requires that employees adhere to laws, City policy, and Department policy.

The Complainant alleged that NE#4 had harassed him over a two-year period by (1) following the Complainant and his girlfriend to a restaurant in Federal Way, (2) eating at the restaurant with CM#1, (3) seizing the Complainant's firearms on December 17, 2020, and (4) being present at the Complainant's May 13, 2021 arrest.

OPA was unable to verify specific details of these allegations because the Complainant refused to provide an oral statement and then requested that OPA stop contacting him via email. However, OPA interviewed CM#1 who stated that he did not know NE#4 and first met the Complainant approximately March of 2021—well after the timeframe the Complainant claimed he saw CM#1 at the restaurant. Although SPD records do show that NE#4 responded to the Complainant's residence to serve a court order, NE#4 completed a report for service of a Protection Order and Order to Surrender Weapons, which was signed by a King County Judge. Finally, SPD documentation and BWV demonstrate that NE#4 did not respond to the May 13, 2021 incident.

Accordingly, OPA recommends this allegation be Not Sustained (Unfounded).

Recommended Finding: **Not Sustained (Unfounded)**

Named Employee #4 - Allegation #2

5.001 - Standards and Duties 10. Employees Will Strive to be Professional

The Complainant alleged that NE#4 was unprofessional by harassing him.

SPD Policy 5.001-POL-10 requires that SPD employees "strive to be professional." The policy further instructs that "employees may not engage in behavior that undermines public trust in the Department, the officer, or other officers" whether on or off duty. (SPD Policy 5.001-POL-10.) The policy further states the following: "Any time employees represent the Department or identify themselves as police officers or Department employees, they will not use profanity directed as an insult or any language that is derogatory, contemptuous, or disrespectful toward any person." (*Id.*) Lastly, the policy instructs Department employees to "avoid unnecessary escalation of events even if those events do not end in reportable uses of force." (*Id.*)

For the reasons set forth above at Named Employee #1, Allegation #1, OPA recommends this allegation be Not Sustained (Unfounded).



Recommended Finding: **Not Sustained (Unfounded)**

Named Employee #5 – Allegation #1

5.140 - Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing

The Complainant alleged that NE#5 engaged in bias-based policing based on his race.

The Complainant did not specifically allege, nor do any facts suggest, that any of NE#5's actions were motivated by the Complainant's race.

Accordingly, OPA recommends that this allegation be Not Sustained (Unfounded).

Recommended Finding: **Not Sustained (Unfounded)**

Named Employee #5 – Allegation #2

8.300-POL-12 Use of Force - Firearms 5. An Officer May Draw their Firearm in the Line of Duty When...

The Complainant alleged that NE#5 improperly drew his patrol rifle.

The SPD Manual states that an officer may draw their firearm if they reasonably believe it may be necessary for their own safety or the safety of others. SPD Manual 8.300-POL-12(5). The SPD Manual elaborates that an officer will not draw their firearm "unless the circumstances surrounding the incident create a reasonable belief that it may be necessary to use the firearm in conformance with policy on the use of firearms." *Id.*

Here, NE#5 was responding to a 911 call of a male with a gun and lots of shouting. SPD officers had recently been to the same location twice in the past 24 hours to respond to reports of the Complainant discharging firearms inside his apartment. Because NE#5 was responding to a volatile situation—"lots of shouting"—in which a participant was reportedly armed, it was entirely reasonable to believe that it may be necessary to use a firearm within policy. See SPD Policy 8.200(4).

Accordingly, OPA recommends that this allegation be Not Sustained (Lawful and Proper).

Recommended Finding: **Not Sustained (Lawful and Proper)**

Named Employee #5 – Allegation #3

8.400-POL-1 Use of Force Reporting and Investigation 1. Officers Will Document in a Use-of-Force Report All Uses of Force Except De Minimis Force

The Complainant alleged that NE#5 failed to document a use of force that was not *de minimis*.

SPD policy requires officers to document all uses of force except *de minimis* force. SPD Manual 8.400-POL-1(1). The SPD Manual defines "pointing of a firearm at a subject" to be a Type I Use of Force, SPD Manual 8.400-POL-1, but also defines "reportable force" as including "the intentional pointing of a firearm at a subject, Type I, Type II, Type III, and force used in Crowd Management." SPD Manual 8.050.



For the reasons set forth above for Named Employee #2, Allegation #2, OPA recommends that this allegation be Not Sustained (Training Referral).

- **Training Referral:** NE#5's chain of command should discuss OPA's findings with NE#5, review SPD Policies 8.400-POL-1 and 8.050 with NE#5, and provide any further retraining and counseling that it deems appropriate. The retraining and counseling conducted should be documented, and this documentation should be maintained in Blue Team.

Recommended Finding: **Not Sustained (Training Referral)**

Named Employee #6 – Allegation #1

6.010 - Arrests 1. Officers Must Have Probable Cause That a Suspect Committed a Crime in Order to Effect an Arrest

For the reasons set forth above at Named Employee #3, Allegation #1, OPA recommends that this allegation be Not Sustained (Lawful and Proper).

Recommended Finding: **Not Sustained (Lawful and Proper)**

Named Employee #6 – Allegation #2

15.180 - Primary Investigations 1. Officers Shall Conduct a Thorough and Complete Search for Evidence

For the reasons set forth above at Named Employee #3, Allegation #2, OPA recommends that this allegation be Not Sustained (Lawful and Proper).

Recommended Finding: **Not Sustained (Lawful and Proper)**

Named Employee #6 – Allegation #3

5.140 - Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing

The Complainant alleged that NE#6 engaged in bias-based policing based on his race.

The Complainant did not specifically allege, nor do any facts suggest, that any of NE#6's actions were motivated by the Complainant's race.

Accordingly, OPA recommends that this allegation be Not Sustained (Unfounded).

Recommended Finding: **Not Sustained (Unfounded)**

Named Employee #6 - Allegation #4

5.140 - Bias-Free Policing 5. Employees Will Call a Supervisor in Response to Allegations of Bias-Based Policing

The Complainant alleged that NE#6 failed to call a supervisor in response to allegations of bias-based policing.



SPD Policy 5.140-POL(5) requires employees to call a supervisor in response to allegations of biased policing. This includes providing sufficient information to the supervisor to allow a determination as to what occurred and what the nature of the bias allegation is. (SPD Policy 5.140-POL-5.)

NE#6 transported the Complainant to King County Jail. During the transport, ICV and BWV conclusively show that the Complainant made several allegations that SPD officers engaged in bias-based policing, such as “Racist a** cops. You’re going to find a way to lock me up.” NE#6 did not report these statements to a supervisor.

In his OPA interview, NE#6 stated that he “wasn’t paying attention to [the Complainant] mostly . . . But with the window closed, I think, because I could hardly hear him – most of what he was saying, but he was speaking.” NE#6 acknowledged that he responded to the Complainant on occasion “just to make it seem like I was engaged somewhat so that it wouldn’t appear that I was ignoring him. But my mind really wasn’t paying attention to what he was saying.” NE#6 acknowledged that, in hearing these statements in his OPA interview, he understood that he would be required to report them.

OPA finds NE#6’s explanation plausible—that, in the context of transporting a prisoner to jail, he stopped paying attention to the Complainant’s comments. If this is what happened, NE#6’s conduct amounted to a potential, but not willful, violation of policy that does not amount to misconduct. NE#6 should be reminded that prisoners often make statements to transporting officers that could be important or require NE#6 to take action.

Accordingly, OPA recommends that this allegation be Not Sustained (Training Referral).

- **Training Referral:** NE#6’s chain of command should discuss OPA’s findings with NE#6, review SPD Policies 5.140(5) with NE#6, and provide any further retraining and counseling that it deems appropriate. The retraining and counseling conducted should be documented, and this documentation should be maintained in Blue Team.

Recommended Finding: **Not Sustained (Training Referral)**

Named Employee #7 – Allegation #1

6.010 - Arrests 1. Officers Must Have Probable Cause That a Suspect Committed a Crime in Order to Effect an Arrest

For the reasons set forth above at Named Employee #3, Allegation #1, OPA recommends that this allegation be Not Sustained (Lawful and Proper).

Recommended Finding: **Not Sustained (Lawful and Proper)**

Named Employee #7 – Allegation #2

15.180 - Primary Investigations 1. Officers Shall Conduct a Thorough and Complete Search for Evidence

For the reasons set forth above at Named Employee #3, Allegation #2, OPA recommends that this allegation be Not Sustained (Lawful and Proper).

Recommended Finding: **Not Sustained (Lawful and Proper)**



Named Employee #7 – Allegation #3

5.140 - Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing

The Complainant alleged that NE#7 engaged in bias-based policing based on his race.

The Complainant did not specifically allege, nor do any facts suggest, that any of NE#7's actions were motivated by the Complainant's race.

Accordingly, OPA recommends that this allegation be Not Sustained (Unfounded).

Recommended Finding: **Not Sustained (Unfounded)**

Named Employee #7 - Allegation #4

8.300–POL-12 Use of Force - Firearms 5. An Officer May Draw their Firearm in the Line of Duty When...

For the reasons set forth above for Named Employee #5, Allegation #2, OPA recommends that this allegation be Not Sustained (Lawful and Proper).

Recommended Finding: **Not Sustained (Lawful and Proper)**

Named Employee #7 - Allegation #5

8.400-POL-1 Use of Force Reporting and Investigation 1. Officers Will Document in a Use-of-Force Report All Uses of Force Except De Minimis Force

For the reasons set forth above for Named Employee #2, Allegation #2, OPA recommends that this allegation be Not Sustained (Training Referral).

- **Training Referral:** NE#7's chain of command should discuss OPA's findings with NE#7, review SPD Policies 8.400-POL-1 and 8.050 with NE#7, and provide any further retraining and counseling that it deems appropriate. The retraining and counseling conducted should be documented, and this documentation should be maintained in Blue Team.

Recommended Finding: **Not Sustained (Training Referral)**

Named Employee #8 - Allegation #1

6.010 - Arrests 1. Officers Must Have Probable Cause That a Suspect Committed a Crime in Order to Effect an Arrest

For the reasons set forth above at Named Employee #3, Allegation #1, OPA recommends that this allegation be Not Sustained (Lawful and Proper).

Recommended Finding: **Not Sustained (Lawful and Proper)**

Named Employee #8 - Allegation #2



15.180 - Primary Investigations 1. Officers Shall Conduct a Thorough and Complete Search for Evidence

For the reasons set forth above at Named Employee #3, Allegation #2, OPA recommends that this allegation be Not Sustained (Lawful and Proper).

Recommended Finding: **Not Sustained (Lawful and Proper)**

Named Employee #8 - Allegation #3

5.140 - Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing

The Complainant alleged that NE#8 engaged in bias-based policing based on his race.

The Complainant did not specifically allege, nor do any facts suggest, that any of NE#8's actions were motivated by the Complainant's race.

Accordingly, OPA recommends that this allegation be Not Sustained (Unfounded).

Recommended Finding: **Not Sustained (Unfounded)**